(3) (3)

CR 4002

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G)

WRIT PETITION(C) NO. 199 /2007

PETITIONERS

1. M/s. Uttamchand Dhariwal & Company, Raipur (C.G.) Through its Partner – Inderchand Dhariwal, S/o. Late Shri Uttamchand Dhariwal, Aged about 60 years, R/o. 45/4, Sadar Bazar, Raipur (C.G.)

2. Laxman Sahu, S/o. Konda Sahu, Aged about 65 years,

3. Jagar Ram, S/o. Somsai Sahu, Aged about 58 years,

4. Bhagat Ram, S/o. Kejau Ram, Aged about 70 years,

2 to 4 R/o. Village Jora, Tahsil & District Raipur (C.G.)

P.R. No. 17116 Dawandas Patel 22/12/06 dated.....

Received. 22/12/06 Incharge Writ Section Advocate General Office Bilaspur

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through its Secretary, Department of Revenue, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

2. Collector, Raipur (C.G.)

3. Additional Tahsildar, Raipur (C.G.)

4. P.N.B. Farmers Welfare Trust, Punjab National Bank, Kachhari Chowk, Raipur (C.G.)

OATH COMMISSIONER APARNA MALVIYA CG 2073/96 14/12/06 Bilaspur Chhattisgarh

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS.

The petitioners, above named, begs to submit as under :-

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आदेश पत्रक

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	09.02.2007 Shri Ashish Shrivastava, learned counsel for the petitioners. Shri Suryakant Mishra, learned P.L. for the State/respondents No. 1 to 3. Shri Sanjay K. Agrawal, learned counsel for the caveator/respondent No. 4. Heard on admission and M.W.P.No. 410/2007, application for interim relief. By the instant petition the petitioners are challenging the order dated 18.11.2002 (Annexure P/5) passed by respondent No. 1/State by which the land in dispute has been allotted to P.N.B. Farmers Welfare Trust i.e. respondent No. 4 and order dated 17.7.2006 whereby the respondent No. 1 has rejected the review application filed by the petitioners against the order dated 18.11.2002. On the application of respondent No. 4 for allotment of the land in question, respondent No. 1 vide order dated 18.11.2002 allotted 8.07 acres of land situated at village Labhandi free of cost for its proposed training programme with the conditions that in the	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

said training programme S.T., S.C. and landless farmers shall be accorded special concessions, it shall not be used for commercial purpose, in the training center no banking activities shall be performed nor the land shall be used for commercial use, the farmers of Chhattisgarh shall be trained free of cost, with other conditions relating to payment of compensation in the event the State takes back the possession of the allotted land. The above allotment was assailed by the petitioners vide their review application of Annexure P/8 dated 19.1.2005 on various grounds including the ground that on the allotted land a road to Pirda in the area 1.25 acres exists, a part of the land is in possession of Sharma Krishi Farm and Kalash Krishi Farm, the land in question is a grass land and the same could not be allotted to any organization without there being a valid order of a competent authority regarding diversion of purpose.

Earlier a writ petition No. 2932/2005 was filed by the petitioners for the identical relief which was disposed of by this

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Court with a direction to the State Government to dispose of the review petition within a period of three months from the date of receipt of copy of that order. Thereafter, respondent No. 1/State vide order of Annexure P/12 dated 17th July 2006 rejected the review petition and confirmed the order of allotment.

Learned counsel for the petitioners submits that by the impugned order the review petition has been arbitrarily rejected by respondent No. 1 without considering the legal objections raised by the petitioners. It has been ignored that the land of the petitioners is adjacent to the allotted land and a part of it is used as a way by the villagers including the petitioners since long. He further submits that in Nistar Patrak it is described as grass land and public way and unless the same is separated from the Nistar Patrak, it could not be allotted. He further submits that on the date of allotment it was not the Nuzul land as village Labhandi was included in the municipal area only on 27.12.2003.

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —4—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

On the other hand, Shri Sanjay K. Agrawal, learned counsel appearing on caveat on behalf of respondent No. 4 submits that in fact the petitioners themselves want to get the land allotted, the land in question is not used as a grass land or a way as there is an alternative way for Pirda which is being used by the villagers. The review petition was belated as the same was filed after almost three years of the allotment and in pursuance of the allotment 30 years lease deed has already been executed between the State and respondent No. 4 which could be assailed only by way of filing a civil suit. The allotment has been made in favour of respondent No. 4 for laudable public purpose of establishing training center of the farmers under the welfare programme of the bank. The petitioners are not the residents of the village concerned and at their instance general public interest and public welfare scheme of respondent No. 4 should not be affected. He further submits that all the grounds raised by the petitioners have been duly considered by the respondent No. 1 and their review petition has been rejected by a reasoned order and as such, no interference is called for.

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —S—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

I have heard learned counsel for the parties and perused the impugned order.

It is not in dispute that the allotment of the land in question was made in favour of respondent No.4 on 18.11.2002 and in pursuance thereof an agreement of lease of Annexure P/6 was entered into between respondent No. 1 and respondent No. 4 on 3.12.2002 which shall be valid for a period up to 31st March 2032. The challenge to the above allotment was made by the petitioners only in the year 2005. Respondent No. 1 rejected the review application of the petitioners on the ground that the petitioners are not the residents of the village where the land in question is situated and as such, they have no locus standi to object against the above allotment, apart from other grounds. The review petition was filed by the petitioners for the reasons that they were using the said land for the purpose of approaching their respective fields situated at village Jora Labhandi, as such they were exercising their right of easement over the allotted land and

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -6-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

therefore, they were the aggrieved party. This fact has been denied by the respondent No. 1/State. However, respondent No. 1 on the basis of material available on record has recorded a finding that the petitioners have not adduced any evidence to establish that they themselves were using the land in question as a way or for the purpose of grazing.

The review petition of the petitioners has been rejected by the impugned order with the findings that;

(a) the petitioners being the residents of other village, are not an aggrieved party, therefore, their belated objection after a period of three years of the allotment cannot be entertained;

(b) there is no evidence on record to show that the petitioners exercised any right of easement of way or the land in question was used by them for grazing purposes; and

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(c) the order of allotment by the respondent No.1/State is for the welfare of the farmers considering the general interest of the farming community at large.

The reasons assigned by the respondent No.1 for rejecting the review petition appear to be valid and justified and the same has been passed in due exercise of the jurisdiction available to the State Government. Even otherwise, the petitioners are claiming themselves to be the aggrieved party solely on the ground that their right of way has been affected because of the above allotment, however, this assertion of the right of easement is a disputed question of fact which cannot be gone into under the writ jurisdiction.

In the result, the petition being devoid of substance is dismissed at the admission stage itself. No order as to costs.

Consequently, M.W.P.No. 410/2007 also stands disposed of.

Sd/-
Dhirendra Mishra
Judge

(पीछे देखिये)